



COUNTY OF LOS ANGELES

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Agenda No. 1
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TO: SUPERVISOR MICHAEL D. ANTONOVICH, Mayor
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SUPERVISOR ZEV YAROSLAVSKY
SUPERVISOR DON KNABE

FROM: RAYMOND G. FORTNER, JR.
County Counsel

RE: **Nomination to the HIV Commission**

On March 7, 2006, your Board requested our office's opinion on whether the Commission on HIV ("Commission") was precluded from nominating, and the Board appointing, members to the Commission until the Commission had a Memorandum of Understanding ("MOU") in place with the Department of Health Services ("DHS").

SUMMARY

While the Health Resources and Services Administration ("HRSA") recommends that there be an MOU between the grantee, DHS, and the grantee's planning council, the Commission, an MOU is not a requirement of the County receiving Ryan White C.A.R.E. Act ("CARE Act") funds. Further, even as recommended by HRSA, such an MOU would not impact and, therefore, is irrelevant to nominations and appointments to the Commission.

ANALYSIS

HRSA's CARE Act Manual suggests that it may be beneficial for planning councils to enter into MOUs with the grantee in their jurisdiction. With respect to Los Angeles County, the grantee is DHS, and the Commission acts as the planning council. Pursuant to the HRSA Manual, the purpose behind such an MOU would be to:

[c]larify the roles of the planning council and the grantee, and to encourage a collaborative working relationship, HAB/DSS **recommends** that these two entities develop a written agreement (a Memorandum of Understanding) that identifies the individual and shared responsibilities of both parties and specifies communication mechanism. (*emphasis added*)

The Manual further states that an MOU "should" be established in order that guidelines for communication between the council and grantee be in place, to ensure the exchange of information between the parties in a timely manner. However, even this stronger language does not require an MOU.

Further evidence that an MOU is not a requirement of the CARE Act is found in written materials distributed by HRSA at a program it sponsored in 2004. In the program's handout, it states that "HRSA does not require - but does encourage the use of MOUs between planning councils and grantees."

Furthermore, the purpose of the recommended MOU, as suggested by HRSA, has nothing to do with the nomination or appointment of council members. Rather, the purpose is to clarify the roles, rights and responsibilities of the grantee and the council. HRSA's Manual dictates that the County must establish a planning council and, once the planning council is established, appoint members through the planning council's nominating process." Your Board established the Commission through an ordinance. That ordinance requires that all members of the Commission be nominated by the Commission and appointed by the Board of Supervisors. It is these provisions, and not the terms of an MOU, which would govern the nomination and appointment of Commission members.

However, we note that, since an MOU between the grantee and the Commission is encouraged by HRSA as a useful tool in clarifying each entity's responsibilities, in the last year, the Commission has established a subcommittee to work on drafting such an MOU.

If you have questions concerning this matter, please contact me, Assistant County Counsel Richard K. Mason at (213) 974-1866, or Deputy County Counsel Allison Morse at (213) 974-1903.

RGF:AM:am

c: David E. Janssen
Chief Administrative Officer

Joanne Sturges, Acting Executive Officer
Board of Supervisors

Craig Vincent-Jones, Executive Director
Commission on HIV